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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

CALIFORNIA COALITION FOR WOMEN
PRISONERS; R.B.; A.H.R.; S.L.; J.L.; J.M.;
G.M.; A.S.; and L.T., individuals on behalf of
themselves and all others similarly situated,

Plaintiffs

v.

UNITED STATES OF AMERICA FEDERAL
BUREAU OF PRISONS, a governmental entity;
BUREAU OF PRISONS DIRECTOR
COLETTE PETERS, in her official capacity;
FCI DUBLIN WARDEN THAHESHA JUSINO,
in her official capacity; OFFICER
BELLHOUSE, in his individual capacity;
OFFICER GACAD, in his individual capacity;
OFFICER JONES, in his individual capacity;
LIEUTENANT JONES, in her individual
capacity; OFFICER LEWIS, in his individual
capacity; OFFICER NUNLEY, in his individual
capacity; OFFICER POOL, in his individual
capacity; LIEUTENANT PUTNAM, in his
individual capacity; OFFICER SERRANO, in
his individual capacity; OFFICER SHIRLEY, in
his individual capacity; OFFICER SMITH, in his
individual capacity; and OFFICER VASQUEZ,
in her individual capacity,

Defendants.

CASE NO. 4:23-CV-04155-YGR

DECLARATION OF ROBERT J. FRANCE

FILED UNDER SEAL

1 I, Robert J. France, hereby declare as follows:

- 2 1. I am a Senior Attorney for Western Region for the Federal Bureau of Prisons ("BOP"). I have
3 been in this position since 2019, and I have worked as an attorney for the BOP since 2013. As
4 Senior Attorney, I primarily provide legal advice to our Western Regional Office and certain
5 institutions within the Western Region to include the Federal Correctional Institution at Dublin,
6 California (FCI Dublin). I also provide litigation support to various United States ("U.S.")
7 Attorney's Offices as needed. As part of the litigation support process, I obtain and review
8 applicable records and communicate with BOP staff to prepare documents that may be used in
9 litigation, such as declarations.
- 10 2. I am familiar with and have regular access to BOP records and databases or BOP staff who have
11 access to BOP records and databases, and routinely obtain and review such records as part of my
12 duties as a Senior Attorney.
- 13 3. As directed by the Court at the sidebar following the February 27, 2024 hearing, I make this
14 declaration to explain the process for cell searches generally, the notification procedures for
15 administrative tort claims generally, and to explain specifically how Adult in Custody (AIC)
16 A [REDACTED] Y [REDACTED] B [REDACTED] (also Y [REDACTED]) could have made an allegation of sexual touching and no
17 FCI Dublin employee was placed on administrative leave.

18 **CELL SEARCHES**

- 19 4. According to FCI Dublin's Special Post Orders for Housing Units, all inmate room and/or Unit
20 common area searches must be logged into TRUSCOPE, an electronic system designed to
21 replace logbooks in the General Population and Special Housing Units. All officers will note in
22 TRUSCOPE the date, time, signature, room/area searched, objects removed, listed and
23 disposition noted. An entry must be made even if no contraband is found. An excerpted copy of
24 the Special Post Order for Housing Units is attached as Exhibit 1.
- 25 5. The Special Post Orders for Housing Units also state that room searches may be initiated for
26 probable cause or at random. The Orders provide that searches must be done professionally,
27 leaving the room as close to how staff found it as possible. Day (6 AM-2 PM) and Evening (2-10
28

PM) Watch Officers will conduct random cell searches. The Morning (10PM-6 AM) Watch Officer is responsible for searches in common areas of the unit. Exhibit 1.

NOTIFICATION PROCEDURES FOR ADMINISTRATIVE TORT CLAIMS

6. When an Adult-in-Custody (AIC) files a tort claim, she files the claim at one of the six Regional Counsel's Office that provides legal coverage for the institution in which the claim accrued. BOP's Western Regional Counsel's Office processes tort claims that originate out of alleged personal injury that transpires at FCI Dublin. On the date the Western Regional Counsel's Office receives the claim or shortly thereafter, our office mails out an acknowledgment letter advising the AIC or AIC representative of when the claim is ripe for judicial review following the end of the 6-month waiting period. The acknowledgment letter does not notify the facility that an individual has allegation against them that should warrant placement on administrative leave.
7. As part of the administrative tort process, our office forwards tort claims to the institution assigned to handle the investigation. Typically, the institution conducts the investigation and sends their findings back to the Regional Counsel's Office that covers that institution. The Regional Counsel's Office will review the administrative tort claim and make a finding of fact.
8. Given the serious nature of FCI Dublin sexual abuse cases, our office receives a CEO memo from the FCI Dublin Warden in lieu of an investigation. The CEO memo indicates that the institution had referred the claim to the Office of Internal Affairs. Our office receives copies of those referral packages.
9. Our office also refers cases to OIA independently of the institution's decision to refer cases. When our office receives a claim, our paralegal will write up a summary for review by our Deputy Regional Counsel (DRC). If the DRC thinks it should be considered for referral, he will send it to the Western Regional Executive Office. Given the serious nature of FCI Dublin cases, the DRC also proactively cc's Beth Reese, OIA Chief. To cc the OIA Chief is not normal practice, but our office adopted this practice as an added layer of oversight because of the FCI Dublin sexual abuse cases. Whether the DRC copies Beth Reese or not, the Western Regional Executive Office forwards the administrative tort claim to the FCI Dublin Warden or Acting

1 Warden (the affected institution's CEO). The Western Regional Executive Office refers the
 2 information to the institution, wherein the SIA will prepare a referral for the Warden's signature
 3 and transmission to the Office of Internal Affairs.

- 4 10. Institutions can become aware of issues when our office sends them tort claims for investigation
 5 and when our office sends tort claims to the Western Regional Executive Office for referral.
 6 Institutions can also send referrals to OIA if they think it requires referral, even if our office does
 7 not think referral is appropriate. If an institution determines a referral is appropriate during the
 8 course of an investigation, the institution can refer it to OIA.

9 **A [REDACTED] Y [REDACTED] [REDACTED] ADMINISTRATIVE TORT CLAIM ISSUES**

- 10 11. On Monday, February 26, 2024, Plaintiff's attorney, Stephen Cha-Kim, emailed AUSA Mattioli
 11 indicating that he and his team were aware of "credible allegations of serious, sexual abuse
 12 involving penetrative touching" concerning an Officer "Allwine." Mr. Cha-Kim specifically
 13 asked if this officer had been placed on administrative leave.
- 14 12. On Tuesday, February 27, 2024, AUSA Mattioli referred these allegations to OIG.
- 15 13. AUSA Mattioli also forwarded the e-mail to my attention for further review.
- 16 14. At sidebar following the February 27, 2024 hearing, Susan Beaty indicated they had assisted the
 17 AIC in filing an administrative tort claim and became aware that this officer was still on staff at
 18 FCI Dublin "two or three weeks ago." AUSA Mattioli reached out to BOP Western Regional
 19 Counsel staff to attempt to locate any tort claims against an Officer "Allwine."
- 20 15. BOP Western Regional Counsel staff investigated the tort file to determine whether there was a
 21 tort claim for an "Allwine." Our staff was unable to locate a tort claim.
- 22 16. Thereafter, AUSA Mattioli emailed Susan Beaty and Stephen Cha-Kim for the AIC's name to
 23 attempt to locate the tort claim that way. They identified A [REDACTED] Y [REDACTED] B [REDACTED]
- 24 17. BOP Western Regional Counsel staff found a claim, TRT-WXR-2023-04299, which was filed by
 25 Oren Nimni on behalf of AIC, A [REDACTED] Y [REDACTED] B [REDACTED], alleging physical and sexual
 26 abuse from February 2022 to December 2022. Y [REDACTED] B [REDACTED] was designated to FCI Dublin from
 27
 28

February 2, 2021, through December 2, 2022, prior to her transfer to Federal Detention Center, Philadelphia, PA and Federal Correctional Institution Danbury, CT.

18. Our office received AIC Y [REDACTED] B [REDACTED]'s claim on April 3, 2023, and Regional Counsel Wong promptly forwarded the claim to FCI Dublin Warden Jusino and OIA Chief Beth Reese, though the SF-95 named an individual not connected with any Dublin staff. When FCI Dublin received the claim, Y [REDACTED] [REDACTED] was no longer designated to the facility.

19. While at FCI Danbury, AIC Y [REDACTED] B [REDACTED] filed an administrative remedy in November 2023 concerning a FCI Dublin "PREA assault and retaliatory punishment." FCI Danbury officials responded to that remedy three days later indicating that the claim would be forwarded to the appropriate office for further review and investigation.

20. FCI Dublin has received no directive from OIG or OIA in connection with this claim to put any staff member on administrative leave based on OIG's ongoing investigation.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 4th day of March 2024 at Stockton, California.

Robert J. France

ROBERT J. FRANCE

Senior Attorney

Western Regional Counsel's Office